Mich. 624. The rule that unless the libellant is without fault the divorce will be only from bed and board (*Conant* v. *Conant,* 10 Cal. 249) seems to require that that fault shall have arisen during the existence of the marriage the libellant seeks to dissolve. In the principal case the complainant was without fault and to grant the absolute divorce seems to be a wise use of the court's discretion.

DIVORCE—VACATION OF DECREE—PERJURED TESTIMONY.—Elizabeth Reeves was, on August 7, 1906, awarded a decree of divorce from Harry Reeves. Her bill made the proper allegations, including one that she was, and for more than six months had been a bona fide resident of South Dakota. Immediately after the decree was awarded she left South Dakota, went to Philadelphia, and on August 11th married one Walls, and has resided in Philadelphia ever since. H. Reeves, on the 20th of July, 1907, moved to vacate the judgment because (1) it was obtained by fraud, and (2) the court had no jurisdiction, for neither party to the cause was a resident of South Dakota. *Held,* the motion to vacate should be denied. *Reeves* v. *Reeves* (1909), — S. D. —, 123 N. W. 869.

Judgments in divorce proceedings are subject to the same power of the courts as to vacation or amendment as are judgments in other proceedings, save where there are special statutory restrictions. *Nicholson* v. *Nicholson,* 113 Ind. 131. The character of the fraud that will render a judgment void must be a fraud extrinsic or collateral to the questions examined. *Corney et al.* v .*Corney,* 79 Ark. 289, 95 S. W. 135; *Pico* v. *Cohn,* 91 Cal. 129, 25 Pac. 970; *U. S.* v. *Throckmorton,* 98 U. S. 65, 25 L. Ed. 95; *In re Griffith,* 84 Cal. 113, 23 Pac. 528. The above rule seems to be undoubtedly the weight of authority. In *Laithe* v. *McDonald,* 7 Kan. 254, 12 Kan. 340, the court holds that if the judgment is obtained through perjured testimony it may be set aside. A divorce decree obtained by one who resided in the state the statutory period only for the purpose of obtaining the divorce may be vacated. *Lawrence* v. *Nelson,* 113 Ia. 277, 85 N. W. 84. *Dunham* v. *Dunham,* 162 Ill. 589, 44 N. E. 841, and *Watkins* v. *Watkins,* 125 Ind. 163, 25 N. E. 175, both hold that no effect will be given to a divorce obtained in another state wherein neither party resided. A decree of divorce procured by perjury or fraud will not be set aside therefore, unless the perjury or fraud consists of intrinsic acts not examined and determined in the divorce suit. *Moor* v. *Moor,* — Tex. Civ. App. —, 63 S. W. 347. The validity of a decree of divorce cannot be collaterally attacked by parties who voluntarily appear and submit to the jurisdiction, on the ground that neither party was subject to the jurisdiction. *In re Ellis' Estate,* 55 Minn. 401, 56 N. W. 1056; *Nichols* v. *Nichols,* 25 N. J. Eq. 60. The principal case, in following the rule in *Moor* v. *Moor,* supra, seems to follow the weight of authority and the rule followed certainly gives stability to judgments rendered in cases where the defendant has had an opportunity to defend and has done so, as in the principal case.

EVIDENCE—OFFER TO PROVE CERTAIN FACTS—SUFFICIENT TO BASE ERROR ON. —The defendant, having a witness on the stand, offered to prove certain facts by him. The court sustained an objection made by the plaintiff, to the effect

that this witness was incompetent to give evidence of the facts offered to be proven by him. Error was based on this ruling. *Held,* that the rejection of the defendant's offer was sufficient to base error on—nothing appearing on the record to show that it was not made in good faith—even though no questions were asked the witness. *Missouri Pac. Ry. Co.* v. *Castle* (1909), — C. C. A., 8th Cir. —, 172 Fed. 841.

The adjudications upon this point cannot be reconciled. The rule established in the U. S. courts seems to be in accord with that stated in the principal case. *Scotland County* v. *Hill,* 112 U. S. 183, 5 Sup. Ct. 93, 28 L. Ed. 692. It, however, is in conflict with a number of state court decisions which hold that the mere offer to prove certain facts, without putting a witness on the stand and asking him questions tending to bring out these facts, is insufficient to assign error on. In *Chi. City R. Co.* v. *Carroll,* 206 Ill. 318, the rule is stated in the following words, "If appellant desired to make the contention it now makes, it should have at least put a witness upon the stand, and proceeded far enough till the question relative to the point, it is now said it was desired to offer evidence upon, was reached and then put the question and allowed the court to rule upon it, and then offered what was expected to be proved by the witness, if he was not allowed to answer the question asked." To the same effect see *Stevens* v. *Newman,* 68 Ill. App. 549; *Higham* v. *Vanosdol,* 101 Ind. 160; *Beard* v. *Lofton,* 102 Ind. 408; *Ralston* v. *Moore,* 105 Ind. 243; *Darnell* v. *Sallee,* 7 Ind. App. 581; *Huggins* v. *Hughes,* 11 Ind. App. 465; *First Nat. Bank* v. *Stanley,* 4 Ind. App. 213; *Lewis* v. *State,* 4 Ind. App. 504; *City of Evansville* v. *Thacker,* 2 Ind. App. 370; 8 ENCYC. OF PL. & PR. 236. The following authorities approve of the rule as found in the principal case and as established in the federal courts, 1 WIGMORE, EVID., § 17, p. 51; *Robinson* v. *State,* 1 Lea. (Tenn.) 673; *Eschback* v. *Hurtt,* 47 Md. 61.

EXECUTORS AND ADMINISTRATORS—ESTOPPEL.—One Emil Freiner, during his life-time, conveyed the land in question to his wife Frances. Upon his death intestate, letters of administration were granted to her. She filed an inventory and petition to sell the land of her intestate, in both of which the land in question was included as belonging to the estate. An order of sale was granted and the sale to one Neeson was confirmed, the administratrix having executed and delivered a deed conveying the land in statutory form. She had also personally represented to Neeson and to the creditors of the estate that the said land belonged to, and was to be sold as part of, the estate. Later, for a consideration of $5, she executed a quitclaim deed to the defendant Whitney who had notice of the rights of Neeson. Plaintiff claims through Neeson. In this action to determine these adverse claims to the land, *Held,* the administratrix and her privies were estopped to deny the validity of the deed to Neeson, or that the land belonged to the estate. *Carruthers* v. *Whitney et ux.* (1909), — Wash. —, 105 Pac. 831.

An administrator is as much bound by the law of estoppel as if he acted in his individual capacity. *Butler* v. *Gazzam,* 81 Ala. 491. An application by the executor named in the will to have the will probated will not amount to a judicial admission which will estop him from claiming as his own, property